

1 Bruce G. Chapman (State Bar No. 164,258)
bchapman@cblh.com
2 Scott R. Miller (State Bar No. 112,656)
smiller@cblh.com
3 Manuel C. Nelson (State Bar No. 229,590)
4 mnelson@cblh.com
5 Keith D. Fraser (State Bar No. 216,279)
kfraser@cblh.com
6 CONNOLLY BOVE LODGE & HUTZ LLP
7 333 South Grand Avenue, Suite 2300
Los Angeles, California 90071
8 Telephone: (213) 787-2500
9 Facsimile: (213) 687-0498

10 Attorneys for Plaintiff and Counterdefendant,
11 ENOVSYs LLC

12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
14

15 ENOVSYs LLC,

16 Plaintiff,

17 v.

18 AT&T MOBILITY LLC, and AT&T
19 MOBILITY II LLC, collectively doing
20 business as AT&T Mobility,

21 Defendants.

22
23 **AND RELATED COUNTERCLAIMS**
24
25
26
27
28

Case No. CV 11-05210 DDP (AGRx)

**ANSWER OF ENOVSYs LLC
TO COUNTERCLAIMS BY
AT&T MOBILITY LLC AND
AT&T MOBILITY II LLC**

JURY TRIAL DEMANDED

Counterclaim defendant Enovsys LLC (“Enovsys”), by its undersigned counsel, hereby answers the Counterclaims of Counterclaimants AT&T Mobility LLC (“AT&T Mobility”), and AT&T Mobility II LLC (“AT&T Mobility II”) (collectively “Counterclaimants”) as follows:

COUNTERCLAIMS

1. The allegations of paragraph 1 of the Counterclaims are admitted.

2. The allegations of paragraph 2 of the Counterclaims are admitted.

3. Enovsys admits that it is a California limited liability company.

Enovsys denies that its principal place of business is in the city of Los Angeles, California.

4. The allegations of paragraph 4 of the Counterclaims are admitted.

5. Enovsys admits that Counterclaimants purport to assert an action pursuant to the Patent Laws of the United States, 35 U.S.C. § 101, *et seq.*, and assert that subject matter jurisdiction in this Court exists under the Federal Declaratory Judgment Act, Title 28, United States Code §§ 2201 and 2202, and under Title 28, United States Code §§ 1331 and 1338(a). Enovsys denies that Counterclaimants are entitled to declaratory relief, including but not limited to any declaration that any claim of any “Asserted Patent” is invalid, or that any claim of any “Asserted Patent” is not infringed.

6. Enovsys admits that an actual justiciable controversy exists between Counterclaimants and Enovsys with respect to the infringement of the ’461 patent and the ’273 patent. Enovsys does not contest that venue is proper in this Court and judicial district pursuant to 28 U.S.C. §§ 1391 and 1400(b). Enovsys denies the remaining allegations of paragraph 6 of the Counterclaims.

7. Enovsys admits that Counterclaimants purport to bring counterclaims against Enovsys.

Declaratory Judgment of Non-Infringement of the '461 Patent

8. Enovsys realleges and incorporates by reference its responses set forth in paragraphs 1-7 as though fully set forth herein.

9. Enovsys admits that Counterclaimants purport to bring an action for a declaratory judgment of non-infringement of the '461 patent.

10. The allegations of paragraph 10 of the Counterclaims are admitted.

11. Enovsys denies the allegations of paragraph 11 of the Counterclaims.

12. Enovsys admits that an actual justiciable controversy exists between Counterclaimants and Enovsys with respect to the infringement of the '461 patent.

13. Enovsys admits that Counterclaimants are seeking declaratory relief. Enovsys nevertheless denies that Counterclaimants are entitled to declaratory relief in this action.

Declaratory Judgment of Invalidity of the '461 Patent

14. Enovsys realleges and incorporates by reference its responses set forth in paragraphs 1-13 as though fully set forth herein.

15. Enovsys admits that Counterclaimants purport to bring an action for a declaratory judgment of invalidity of the '461 patent.

16. Enovsys denies the allegations of paragraph 16 of the Counterclaims.

17. Enovsys denies the allegations of paragraph 17 of the Counterclaims.

18. Enovsys admits that Counterclaimants are seeking declaratory relief. Enovsys nevertheless denies that Counterclaimants are entitled to declaratory relief in this action.

Declaratory Judgment of Non-Infringement of the '273 Patent

19. Enovsys realleges and incorporates by reference its responses set forth in paragraphs 1-18 as though fully set forth herein.

20. Enovsys admits that Counterclaimants purport to bring an action for a declaratory judgment of non-infringement of the '273 patent.

21. The allegations of paragraph 21 of the Counterclaims are admitted.

22. Enovsys denies the allegations of paragraph 22 of the Counterclaims.

23. Enovsys admits that an actual justiciable controversy exists between Counterclaimants and Enovsys with respect to the infringement of the '273 patent.

24. Enovsys admits that Counterclaimants are seeking declaratory relief. Enovsys nevertheless denies that Counterclaimants are entitled to declaratory relief in this action.

Declaratory Judgment of Invalidity of the '273 Patent

25. Enovsys realleges and incorporates by reference its responses set forth in paragraphs 1-24 as though fully set forth herein.

26. Enovsys admits that Counterclaimants purport to bring an action for a declaratory judgment of invalidity of the '273 patent.

27. Enovsys denies the allegations of paragraph 27 of the Counterclaims.

28. Enovsys denies the allegations of paragraph 28 of the Counterclaims.

29. Enovsys admits that Counterclaimants are seeking declaratory relief. Enovsys nevertheless denies that Counterclaimants are entitled to declaratory relief in this action.

Demand For Jury Trial

30. Enovsys admits that Counterclaimants have requested trial by jury.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

31. The Counterclaims fail to state a claim for declaratory relief of invalidity.

PRAYER FOR RELIEF

WHEREFORE, plaintiff Enovsys respectfully requests that this Court enter judgment in its favor against Defendants-Counterclaimants and grant the following relief:

A. An Order dismissing Counterclaimants' Counterclaims with prejudice;

B. A judgment declaring that Defendants-Counterclaimants have directly and/or indirectly infringed one or more claims of the '461 patent and/or the '273 patent in violation of 35 U.S.C. § 271;

C. A preliminary and permanent injunction, pursuant to 35 U.S.C. § 283, enjoining Defendants-Counterclaimants and their officers, agents, servants, employees, attorneys and all persons in active concert or participation with them, from any further acts of infringement, inducement of infringement, or contributory infringement of the '461 patent and/or the '273 patent;

D. A judgment, pursuant to 35 U.S.C. § 284, awarding Enovsys damages adequate to compensate Enovsys for Defendants-Counterclaimants' infringement of the '461 patent and/or the '273 patent, in an amount to be determined at trial, but in no event less than a reasonable royalty;

E. An order, pursuant to 35 U.S.C. § 284, finding that Defendants-Counterclaimants' infringement has been willful and deliberate and awarding to Enovsys up to treble damages;

1 F. A judgment, pursuant to 35 U.S.C. § 284, awarding
2 Enovsys interest on the damages and its costs incurred in this action;

3 G. An award of pre-judgment and post-judgment interest
4 and costs to Enovsys pursuant to 35 U.S.C. § 284;

5 H. An order, pursuant to 35 U.S.C. § 285, finding that this is
6 an exceptional case and awarding to Enovsys its reasonable attorneys'
7 fees incurred in this action; and

8 I. Such other and further relief as the Court may deem just
9 and proper.

10
11 Respectfully Submitted,

12 Dated: November 23, 2011 CONNOLLY BOVE LODGE & HUTZ LLP

13
14 By: /s/ Bruce G. Chapman
15 Bruce G. Chapman
16 Attorneys for Plaintiff and
17 Counterdefendant ENOVSYS LLC
18
19
20
21
22
23
24
25
26
27
28

Demand for Jury Trial

Pursuant to Fed. R. Civ. P. 38(b) and Local Rule 38-1, plaintiff Enovsys LLC hereby demands a trial by jury on all issues so triable.

Respectfully Submitted,

Dated: November 23, 2011 CONNOLLY BOVE LODGE & HUTZ LLP

By: /s/ Bruce G. Chapman
Bruce G. Chapman
Attorneys for Plaintiff and
Counterdefendant ENOVSYS LLC